

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CALZONE KING, LLC,

Plaintiff,

vs.

MIDWEST DOUGH GUYS, LLC, NICKOLAS
ROWAN, and CORY ROWAN,

Defendants.

8:24CV335

**CORRECTED PRELIMINARY
INJUNCTION**

The parties have filed a Corrected Joint Stipulation for Preliminary Injunction, in which they explain that “the wrong version of the joint stipulation was erroneously filed,” because it contained the following provision that was not ultimately agreed to: “Notwithstanding the foregoing, the prohibition on offering delivery of food between midnight and 3:00 a.m. within this radius shall not apply to Misfits Bar and Grill for orders delivered via DoorDash.” [Filing 28 at 1](#). The parties represent that they discovered the error after the Court adopted the joint stipulation containing the clerical error in entering the Preliminary Injunction. [Filing 28 at 1](#). Pursuant to Federal Rule of Civil Procedure 60, the parties jointly request that owing to the clerical mistake the Court enter this Corrected Preliminary Injunction. [Filing 28 at 1](#). The Court having considered the record in this case and the parties’ Corrected Stipulated Preliminary Injunction, [Filing 28](#), the Court enters this Corrected Stipulated Preliminary Injunction on the following terms:

THE COURT FINDS for preliminary purposes that the terms of the parties’ Stipulated Preliminary Injunction are appropriate to address the following claims:

- Plaintiff’s claims that Defendants Midwest Dough Guys, LLC, Nickolas Rowan a/k/a Nickolas Seevers (Seevers), and Cory Rowan (Rowan) are violating the terms of the Franchise Agreements entered into by Midwest Dough Guys and guaranteed

by Seevers and Rowan by operating a competing business advertising the sale of calzones or pizza and offering delivery between midnight and 3:00 a.m. at the location of Misfits on O at 1442 O Street in Lincoln, Nebraska, and

- Plaintiff's further claim that Defendants are using the D.P. Dough service mark or marks in commerce after termination of their license to do so in violation of [15 U.S.C. § 1125\(a\)](#).

IT IS THEREFORE ORDERED that during the pendency of this case or entry of a contrary order of this or a reviewing court, Defendants are preliminarily enjoined as follows:

1. Defendants, and all persons or entities acting in concert with them, are prohibited from using D.P. Dough's service mark, and Defendants shall immediately remove the D.P. Dough service mark from the Misfits on O Facebook page.

2. Defendants, and all persons or entities acting in concert with them, are restrained and enjoined from (a) operating a business within a fifteen (15) mile radius of 1442 O Street in Lincoln, Nebraska, that offers or advertises the sale of calzones or pizza, and (b) offering delivery of food between midnight and 3:00 a.m. within this radius.

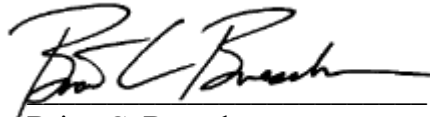
3. Defendants, and all persons or entities acting in concert with them, are prohibited from offering or advertising calzones for sale at Misfits on O.

AND IT IS FURTHER ORDERED that nothing in this Preliminary Injunction or the parties' Stipulation shall prohibit Plaintiff from filing a separate motion for temporary restraining order or preliminary injunction, as to any other term of the Franchise Agreements, including the non-compete provisions thereof, including but not limited to claims relating to Manhattan, Kansas, and Kearney, Nebraska, which arguments are expressly reserved.

FINALLY, IT IS FURTHER ORDERED that the parties have stipulated that no bond shall be required to secure this preliminary injunction, and Defendants waive any argument that a surety should be required. The Court has been advised by the Clerk of Court's Financial Office that Plaintiff has requested return of the bond directly to Plaintiff rather than care of Plaintiff's counsel. The Clerk of Court is therefore directed to return to Plaintiff Calzone King, LLC, 1199 Davinci Drive, Cortland, NY 13045 or by EFT transfer if requested, the \$15,000.00 bond provided by Plaintiff for the issuance of the Temporary Restraining Order.

Dated this 16th day of September, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge